IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIFTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

and
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 22385 of 2001

Between:

1. The Deputy Conservator of Forests,

Planning & Extension, Warangal.

2. The Conservator of Forests,

Warangal Circle, Warangal.

3. The Principal Chief Conservator of Forests,

Andhra Pradesh, Hyderabad.

4. The Government of A.P., Rep., by its

Principal Secretary, Environment, Science and

Technology Department, Secretariat, Hyderabad.

5. The Secretary, Finance and Planning Department,

Secretariat, Hyderabad.

..... PETITIONERS

AND

1. The Registrar, A.P. Administrative Tribunal, Hyderabad.

2. G. Komuraiah, Daily Wage Worker, K.U.C., Nursery, Warangal.

3. M. Uppalaiah, Daily Wage Worker, K.U.C., Nursery, Warangal.

4. G. Bhagya, Daily Wage Worker, Rampur Nursery, Warangal.

5. M. Ravi, Daily Wage Worker, Rampur Nursery, Warangal.

6. P. Ankush, Daily Wage Worker, Collector's Campus, Warangal.

7. G. Rajamallu, Daily Wage Worker, Vanavigyan Nursery, Warangal.

8. Md. Yakub, Daily Wage Worker, Road side plantation, Devnoor.

9. M. Kumara Swamy, Daily Wage Worker, Road side plantation, Madikonda, Warangal.

10. K. Venkateshwarlu, Daily Wage Worker, Road Side Plantation, Chinnapendyal, Warangal.

11. V. Komuraiah, Daily Wage worker, Vanavigyan, Warangal.

12. R. Ramesh, Daily wage worker, Vanavigyan, Warangal.

13. M. Jampaiah, Daily Wage worker, Ghanpur (Mulugu), Warangal.

14. Yerra Sreehari, daily wage worker, Road side plantation, Warangal.

15. K. Kotaiah, Daily wage worker, Road Side Plantation, Arepally, Warangal.

16. M. Bikshapathi, Daily wage worker, Jangaon Nursery, Warangal.

17. Md. Babukhan, Daily wage worker, Jangaon Nursery, Warangal.

18. M. Mallaiah, Daily wage worker, Jangaon Nursery, Warangal.

19. Muniga Narsaiah, Daily wage worker, Jangaon Nursery, Warangal.

20. D. Sambaiah, Daily wage worker, Jangaon Nursery, Warangal.

21. S. Ramchander, Daily Wage worker, Jangaon Nursery, Warangal.

2. Ch. Venkataiah, Daily wage worker, Jangaon Nursery, Warangal.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order, direction or a Writ particularly one in the nature of a Writ of Certiorari calling for the records relating to the order of the Hon'ble A.P. Administrative Tribunal dated 23.2.2001 in O.A.No.4382 of 1999 and to quash the same.

Counsel for the Petitioners: GP FOR FINANCE & PLANNING

Counsel for the Respondents: MR.P.V.RAMANA

The Court made the following:

ORAL ORDER:- (PER GB.J.)

The Writ Petition is filed by the Government assailing the order, dated 23.02.2001, passed by the A.P. Administrative Tribunal, Hyderabad in batch of cases.

2. The respondents were employed on daily wage basis as bungalow watchers in the nurseries since 1985 onwards and they have been continuing as such. Since they have completed more than five years of service as on the date of issuance of G.O.Ms.No.212, dated 22.04.1994, they approached the Tribunal for consideration of their case keeping in view the judgment of this Court in W.P.No.7175 of 1997, dated 08.12.2000, for regularization of their services.

3. The Tribunal clubbed the case of the petitioner along with other similarly situate persons and allowed the O.As. with the following directions:

"Thus, we direct the respondents to regularize the services of the applicants

> who fulfill the conditions incorporated in G.O.Ms.No.212, dated 22.04.1994 and G.O.Ms.No.112, dated 23.07.1997 irrespective of the fact whether they complete 5/10 years of service as on 25.11.1993 provided they were in service as on the said cut-off date and without insisting for existence of clear vacancy. To be more specific, we direct the respondents to consider the cases of all the applicants who were appointed prior to 25.11.1993 and who completed 5/10 years of service as fulltime or part time employees for regularization as and when they complete the said period of service. The above exercise shall be completed within a period of six months from the date of receipt of a copy of this order.
>
> We further direct the respondents to effect payment of salaries to the applicants in the pay scale attached to the post and pay arrears of salary from this date (23.02.2001). The above exercise shall be completed within a period of three months from the date of receipt of a copy of this order."

Aggrieved by the said order, the present Writ Petition has been filed.

4. Learned Government Pleader for Finance and Planning submits that the respondents did not possess the requisite qualification and had not put in continuous service as prescribed in G.O.Ms.No.212, dated 22.04.1994. He submits that since the respondents did not possess the requisite qualification required for the post, the very direction of regularization and payment of salary from 23.03.2001 is illegal and contrary to law.

5. The learned counsel for the respondents submits that the respondents have been working for nearly 20 years and at this juncture it will be harsh to continue them on daily wage basis on payment of paltry amount as fixed under the Minimum Wages Act. He also submits that they were also ineligible for any other post since they crossed 40 years of age and therefore, he submits that the order of the Tribunal cannot be said to be illegal and contrary to law.

6. We have heard the learned counsel for the parties.

7. We find that the documents produced by the unofficial respondents are sufficient to establish that the respondents have been continuously engaged in work for more than 5 years on the date of issuance of G.O.Ms.No.212, and one such

communication is the statement of service particulars furnished by the Divisional Forest Officer, Social, Warangal, dated 22.04.1998. Thus, the document itself constitutes an answer to the contention of the Government.

8. It is not in dispute that the respondents were engaged right from 1985 onwards. Therefore, the question that calls for consideration is whether they have put in five years of service as on 25.11.1993, if so, whether it is a continuous service or a mere service as on the cut-off date.

9. Learned counsel for the respondents relies on the decision of a Division Bench of this Court reported in ***SECRETARY, A.P. SOCIAL WELFARE RESIDENTIAL EDUCATIONAL INSTITUTIONS SOCIETY, HYDERABAD & OTHERS v P. VENKATA KUMARI*** wherein it has been stated that completion of five years of service is required and not continuous service. This aspect was not considered by the Government while considering the case of the respondents.

10. In view of the above situation, we find that the matter requires reconsideration in the hands of the Tribunal.

11. Accordingly, we dispose of the Writ Petition with the following directions:

The Government shall call for necessary particulars of the respondents from the subordinate offices where they were directly employed and taking into consideration the particulars furnished by the said offices, it shall consider their case with reference to G.O.Ms.No.212 and pass appropriate orders. It is also open for the petitioners to furnish the orders or other particulars if they have not furnished earlier to the Government, within a period of three weeks from the date of receipt of a copy of this order and the Government will consider their case taking into consideration the judgment of the Divisional Bench as referred to above. The entire exercise shall be done within a period of three months from the date of receipt of a copy of this order. No costs.

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G. BIKSHAPATHY, J

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P.S. NARAYANA, J

Date: 25.04.2005

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To

1. The Deputy Conservator of Forests,

Planning & Extension, Warangal.

2. The Conservator of Forests,

Warangal Circle, Warangal.

3. The Principal Chief Conservator of Forests,

Andhra Pradesh, Hyderabad.

4. The Principal Secretary, Government of A.P.,

Environment, Science and Technology Department, Secretariat, Hyderabad.

5. The Secretary, Finance and Planning Department,

Secretariat, Hyderabad.

6. The Registrar, A.P. Administrative Tribunal, Hyderabad.

7. 2 CCs to the GP for Finance and Planning, High Court buildings, Hyderabad (OUT)

8. 2 CD copies

9. 1 CC to MR.RAMANA